

Harrington Park
ZONING BOARD OF ADJUSTMENT
REGULAR MEETING MINUTES
Wednesday, October 23, 2019 @ 7:00PM

Chairman McLaughlin called the meeting to order at 7:04PM.

Open Public Meeting Act Announcement: In compliance with Chapter 231, Public Law 1975, adequate notice of this meeting was made. It has been posted on the Bulletin Board in the Municipal Center. Copies have been mailed to THE RECORD, NORTHERN VALLEY PRESS, and the NORTH JERSEY SUBURBANITE. A copy has been filed with the Borough Clerk and copies have been mailed to individuals requesting the same.

ROLL CALL

Roll Call	PRESENT	ABSENT
(RM) Chairman Richard McLAUGHLIN	X	
(MR) Vice Chair Michael ROTH	X	
(JP) John POWERS	X	
(JC) Jin CHO		X
(SL) Steve LOTT	X	
(SM) Stephen MARTINEZ		X
(TC) Todd CANNAO		X
(RB) Robert BUDINICH (alternate a)		X
(GZ) Gail ZACCARO (alternate b)	X (arrived at 7:32)	

Also present: (JS) John Schettino, Board Attorney
(CL) Carolyn Lee, Land Use Secretary

MINUTES FOR APPROVAL

September 25, 2019 minutes

Changes to the minutes that were emailed are:

1. Meeting was called to order at 7:30pm and ended at 8:20pm.
2. Testimony for 17 Park Street on page 3 should be that there would not be an impact on the neighbors.

Approval of September 25, 2019 minutes	Motion	Second	Yes	No	Abstain	Absent
Chairman Richard McLAUGHLIN			X			
Vice Chair Michael ROTH					X	
John POWERS		X	X			
Jin CHO						X
Steve LOTT	X		X			
Stephen MARTINEZ						X
Todd CANNAO						X
Robert BUDINICH (alternate a)						X
Gail ZACCARO (alternate b)						X

INVOICES FOR APPROVAL

Law Office of John L. Schettino	Meeting attendance 9/25/2019	\$ 150.00
TOTAL		\$ 150.00

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VOTE: Approval of Invoices

Motion: JP **Second:** GZ

In favor, all said "Aye". Unanimous approval.

HEARINGS

1. 17 Park Street – addition and accessory structure (garage) – Robert Stout

Use variance is on the list. There are 3 members present who attended the meeting. 5 people are required to vote for a use variance. It is not possible to grant a use variance at this meeting. The Board asked if there was additional testimony. Mr. Stamos requested to have a resolution the same night in anticipation of approval of the application. Mr. Stamos, of Ferro and Stamos, was sworn in, on behalf of the applicant. The revisions on the plans included:

- Staircase and door at rear of 2nd floor of the house was removed
- Notation of an office in 2nd floor of the house changed to bedroom
- 3 bedrooms on 2nd floor
- Bedroom on the first floor changed to dining room
- No change requested with garage

Mr. Stamos summarized the garage request:

- Client lives in town and works from his house and has young children
- This is a rental property and uses the garage for storage
- The applicant would like to use the 2nd story in the garage as his office space
- The applicant runs the office by himself
- The office space is the same footprint as the garage
- It is an office space with a powder room
- There is no kitchen
- He would not convert the office space to living quarters, kitchen or cooking

Mr. Lott asked if the sewer line was connected to the garage already.

Mr. Stout, 21 Raymond Street, is still under oath. Mr. Stout said they plan to run a line from the house to the garage. There is no line currently.

There were no questions from the public.

RM noted the Board will make an effort for sufficient number of qualified members in the next meeting. In the interim, on the possibility of a favorable outcome, Mr. Stamos authorized JS to prepare the resolution.

There was discussion about the date of the next meeting. The members decided to change the meeting date.

VOTE: Approval to change the Board of Adjustment meeting to Monday, November 25, 2019 at 7:30PM from Wednesday, November 27, 2019 at 7:00PM.

Motion: JP **Second:** SL

In favor, all said "Aye".

CL will notify members and will send out a notice of the change.

2. 111 South Colonial Drive – in-ground pool

Jonathan Fischer, 111 South Colonial Drive, Harrington Park and Douglas Radick, Architect, 243 West Street, Closter, NJ were sworn in.

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Mr. Fischer has lived in Harrington Park for 10 years. Mr. Radick said they were before the board 2.5 years ago to put a porch at the side of the house. The lot is an odd shaped lot in the R-3 zone. The property requires 18,000sf, but is 23,787sf and about 6,000sf over the minimum required. It is at the northern end of town. The house is located on the rear and left corner of the lot with an open triangular section. The setbacks would prevent any house placement there. The applicant wanted to put in a pool and not destroy this part of the land. A small pool at the back part of the property is before the board.

Immediately, behind the property is a wooded lot. Mr. Fischer said the wooded area is about 30ft on the neighbor's property. Mr. Fischer's house is behind the bridge at Pondside Park. Mr. Stamos handed out a survey that shows 34ft to one corner of the house and 58.9ft to the other corner of the property. Mr. Fischer's property shows 34.8ft and 47ft, there would be 81ft house to house. The trees are largely deciduous trees and can't see anything in the summer. Mr. Stamos made the point that what is proposed is unobtrusive. The existing non-conformity is 80% frontage and it is 65%. There is nothing they can do about it because of the irregularity of the lot. It is a corner lot with a double front yard. The pool will be 13.5ft from the lot line where 35ft is required. It is a 21.6" variance is incurred. There is code on patio distance where 10ft is required. They are requesting zero at the rear. The circles are the fenced area to meet code for safety codes for a swimming pool. Within the area, is the pool and paving. They are going 3ft off the rear yard for the pool and 13.5ft for the pool on the front yard setback. A variance is requested of 10ft on the patio to property and 13.5ft and 3ft from pool to property. It is an accessory structure below grade. The fence should be painted black and should be at least 42inches high. This pool won't affect anybody. The code is a one size fits all code and not all lots are the same.

MR asked if the gate could be walked over. Mr. Fischer said that there will be a fence. The house behind them has no fence. There is a small fence to his neighbor to the left. They have a fence along their backyard that abuts the park. There is a small angled fence that goes out about 15ft and stops. On the side there is no fence and is open that is the reason why he did not want to put the pool there because it looks so nice.

SL noted that if the pool was on the other side of the yard, there may not be a variance. The applicant said that it would take away aesthetically.

RM asked if the sewer easement that stops at the property line affects the application. There was a question about the purpose for the easement. The applicant said there used to be a gravel road and was expanded to a real road that did not line up. There is no paved road there and a sewer line has been added since Mr. Fischer moved in. The offset is shown that it does not line up. There are 2 properties in that area. The pool will be included in the easement if the easement is extended into the property but the survey shows that the easement stops at the property line. The applicant says there is a paved street. If the easement is extended it would affect the pool and patio.

SL asked if someone who could clarify the easement. Mr. Fischer said that he would be happy to move the pool. JS recommended that it would be better off to write a letter to the town engineer, describing the situation and need clarification if the easement extends onto your property. Let them know you need the information prior to the next meeting on November 25th. The Board would need that information for the resolution. The applicant is willing to move the pool off the easement. The patio can touch the easement. Mr. Radick will update the plans to avoid the easement. The applicant will put a fence around the pool. The pool is 5'8" deep at the most.

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There were no members of the public. The public portion for questions was closed.

RM noted that the board members between now and November 25th will come out individually to look at the area. RM requested that the applicant outline the perimeter of the area with non-permanent markers.

3. 33 Taylor Place – impervious coverage

Robert Fluet, 33 Taylor Place, Harrington Park, NJ was sworn in.

Mr. Fluet had a pool installed by Sylvan Pools. Sylvan Pools filed for permit and there were no issues with easement or zoning. During this process, the applicant worked on surroundings around the pool with their vendors. The contractor submitted an as-built survey to close the permit. The as-built was rejected because it did not reflect the application. The location of the equipment was changed before the work was done. Mr. Fluet paid the engineer to do the correct as-built. The correct as-built is now over zoning. This is something was built and not proposing to be built.

The house was new when they purchased the house and the survey provided was the foundation survey. There is a 10ft right-of-way between Mr. Fluet's property and his neighbor. It doesn't show that on survey. 5ft should be the applicant's property. Mr. Fluet explained that the person in the tax department looked at the tax maps and tried to call the town for more information. If 5ft of the property were the applicant's, the coverage would be reduced from 47% to about 45%. There is a drain between the properties. This is 3.5 years trying to put this together. The pool is 16ft x 32ft. The applicant stated that the right of way was there before the house was built. If the applicant got a survey, he would be able to add it to the calculations. MR asked how is the tax figured out. The applicant was not sure and was not determined by the tax person. The tax map is not as valid as a survey. If the variance is approved, then the applicant feels that he does not have to get a survey done. The applicant said that at the time of closing, the foundation survey was provided. MR asked if the bank required a more current survey. SL asked if there were stakes on the property. Mr. Fluet said there are not stakes. JS said that the application is required regardless the variance is for 4% or 2% over the maximum coverage.

The pool was installed 6 years after the applicant purchased the house. The town inspected the pool. The building department noted that the as-built showed more coverage than what the zoning permits. The only element for not closing the permit was the as-built. The pool has been in place for 4 years.

RM asked if there were members of the public with questions. There were no members of the public at the meeting. Mr. Fluet had nothing to add.

Approval of the 33 Taylor Place Application (impervious coverage)	Motion	Second	Yes	No	Abstain	Absent
Chairman Richard McLAUGHLIN			X			
Vice Chair Michael ROTH			X			
John POWERS	X		X			
Jin CHO						X
Steve LOTT			X			
Stephen MARTINEZ						X
Todd CANNAO						X
Robert BUDINICH (alternate a)						X

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Gail ZACCARO (alternate b)		X	X			
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RM noted that that application was approved. A written resolution has to be prepared and will be voted on in the November 25, 2019 meeting. The applicant does not need to attend. Once that is done, the approval is published in one of the newspapers mentioned at the beginning of the meeting. Anyone who has a dispute with that decision has 45 days from the date of publication to file suit. The applicant does not have to do anything.

RESOLUTIONS

1. 111 Kline Street – front yard porch – Jesse Janson

VOTE: Approval of 111 Kline Street Application (Front Yard Porch)

Motion: JP **Second:** GZ

Abstain: MR

In favor, all said “Aye”.

NEW BUSINESS

1. **Correspondence – Recommendation Request (Building Department)**

“As Built Survey” at completion of project be stated/noted and on record and memorialized in resolution

Mr. Zavardino, the Construction/Zoning Official, requested that at approval of an application, that at completion of project the requirement of an "As Built Survey" be stated/noted on record and memorialized in the Resolution. There may be an assumption that it is required but if challenged, the building department may not have bases to enforce.

There was discussion about inspections and procedures.

The board agrees. From now on JS will include that provision in the approving resolutions.

ADJOURN

Motion: JP **Second:** GZ

In favor, all said “aye”.

Meeting adjourned at 8:00PM.

NEXT SCHEDULED ZONING BOARD OF ADJUSTMENT
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